

**Appl. No.** : 10/614,392  
**Filed** : July 7, 2003

### **REMARKS**

Applicants have canceled Claims 98, 101, 103 and 116-119 without prejudice to, or disclaimer of, the subject matter contained therein. Applicants maintain that the cancellation of a claim makes no admission as to its patentability and reserve the right to pursue the subject matter of the canceled claims in this or any other patent application. Applicants have amended independent Claim 97 to import all limitations of allowed Claim 93 of U.S. Patent Application No. 10/614,644, and to remove the limitation "reintroducing said concentrated cell population that comprises adipose-derived stem cells into said patient" as discussed during the personal interview on January 8, 2008. Applicants have also amended Claims 104, 105, 107 and 122, and have added new Claim 136. The amendments add no new matter and are fully supported by the specification and claims as originally filed. Support for the amendments can be found, for example, at page 7, lines 27-28; page 10, lines 27-28; page 23, line 23; page 26, lines 9-11; page 27, lines 11 and 16-20; and page 29, lines 15-18 and 25-26, and elsewhere throughout the specification and the claims as originally filed in the application.

On January 8, 2008, the undersigned and Examiner Lankford conducted a personal interview to discuss the Restriction Requirement mailed October 11, 2007. During the interview, the restriction requirement, claim objections, and the potential for obviousness-type double patenting objections with respect to U.S. Patent Application Serial No. 10/614,644 and related U.S. Patent Application No's: 11/584,202, 10/614,431, and 10/614,643 were discussed. The undersigned and the Examiner agreed that Applicants would: (1) amend the claims to import all limitations from allowed Claim 93 from U.S. Patent Application No. 10/614,644; (2) amend the claims to remove the phrase "for reintroduction into a patient"; (3) amend the claims to remove references to specific ailments; and (4) submit a terminal disclaimer to address any potential obviousness-type double patenting with respect to other applications in the family.

#### **Response to Restriction Requirement**

The Examiner and the undersigned agreed that Applicants are not required to elect an additive. Applicants also submit that an election of the ailment to be treated is obviated by the present amendment. Accordingly, Applicants respectfully submit that the present response amendments are fully responsive to the Restriction Requirement mailed October 11, 2007.

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Upon entry of the foregoing amendments, Claims 97, 99-100, 102, 104-115 and 120-121 are pending in the application and are presented for examination.

Terminal Disclaimer

The undersigned and the Examiner discussed the possibility of obviousness-type double patenting at the personal interview on January 8, 2008. To alleviate any concerns regarding obviousness-type double patenting, Applicants hereby submit a terminal disclaimer that disclaims any terminal part of a patent that may grant on the instant application that would extend beyond the expiration dates of patents that issue to U.S. Patent Application No's: 10/614,644, 11/584,202, 10/614,431, and 10/614,643.

**CONCLUSION**


The undersigned has made a good faith effort to respond to the Restriction Requirement. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is invited to call the undersigned attorney to resolve such issues promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 11, 2008

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